

FORM 26. Docketing Statement

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 13-1665,1666,1667

AdjustaCam, LLC

v.

Newegg, Inc., et al

DOCKETING STATEMENT

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing. All questions must be answered or the statement will be rejected.

Name of the party you represent Newegg Inc., Newegg.com Inc. and Rosewill Inc.

Party is (select one) ☐ Appellant/Petitioner ☒ Cross-Appellant
☐ Appellee/Respondent ☐ Intervenor

Tribunal appealed from and Case No. USDC ED Texas 6:10-cv-329-LED

Date of Judgment/Order Aug 19 & 20, 2013 Type of Case Patent

Relief sought on appeal Reversal of Order Denying Motion for Exceptional Case and Attorney Fees

Relief awarded below (if damages, specify) _____
District Court granted Appellant's motion to dismiss its infringement claims against Cross-Appellants with prejudice.

Briefly describe the judgment/order appealed from _____
Cross-Appellants appeal from the Court's August 19, 2013 Order denying Appellants' Sealed Motion for Declaration of Exceptional Case and Award of Fees and Nontaxable Expenses, as well as the Court's Final Judgment, entered on August 20, 2013. Cross-Appellants also seek denial of the relief purported to be sought by Appellant in its appeal.

Form 26

FORM 26. Docketing Statement (continued)

Nature of judgment (select one)

- ☒ Final Judgment, 28 USC 1295
- ☐ Rule 54(b)
- ☐ Interlocutory Order (specify type) _____
- ☐ Other (explain; *see* Fed. Cir. R. 28(a)(5)) _____

Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued _____

Brief statement of the issues to be raised on appeal _____
 Whether the District Court erred in denying Cross-Appellants' Motion for Declaration of Exceptional Case and Award of Nontaxable Expenses. Also, whether Appellant is entitled to any relief purported to be sought in its appeal.

Have there been discussions with other parties relating to settlement of this case?

☒ Yes ☐ No

If "yes," when were the last such discussions?

- ☐ Before the case was filed below?
- ☒ During the pendency of the case below?
- ☐ Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated? ☒ Yes ☐ No

If they were mediated, by whom? _____

Mr. James Knowles, 909 ESE Loop 323, Suite 410, Tyler, Texas 75701.

FORM 26. Docketing Statement (continued)

Do you believe that this case may be amenable to mediation? ☐ Yes ☒ No

If you answered no, explain why not _____
 The parties discussed settlement on several occasions without success and do not expect additional settlement communications to be productive.

Provide any other information relevant to the inclusion of this case in the court's mediation program. _____
 N/A

I certify that I filed an original and one copy of this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this 27th day of September, 2013

by: electronic mail
 (manner of service)

<u>Dana M. Herberholz</u>	<u>/s/ Dana M. Herberholz</u>
Name of Counsel	Signature of Counsel

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